

ORDINANCE NO. _____

AN ORDINANCE AUTHORIZING THE DIVISION OF REVENUE TO IMPLEMENT A ONE-TIME OCCUPATIONAL LICENSE FEE AMNESTY PROGRAM WAIVING PENALTIES AND INTEREST FOR DELINQUENT OCCUPATIONAL LICENSE FEES OWED BY APPLICANTS TO THE PROGRAM WHO HAVE FAILED TO FILE RETURNS AND/OR PAY OCCUPATIONAL LICENSE FEES WHICH ARE DELINQUENT AS OF JUNE 1, 2010, AND WHO VOLUNTARILY FILE RETURNS AND REMIT FULL PAYMENT OR PAY TWENTY-FIVE PERCENT (25%) OF THE DELINQUENCY AND ENTER INTO ACCEPTABLE AGREEMENTS TO PAY ALL DELINQUENT TAXES, SAID PROGRAM TO RUN FROM THE DATE OF PASSAGE OF THIS ORDINANCE THROUGH JULY 30, 2010.

BE IT ORDAINED BY THE COUNCIL OF THE LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT:

Section 1 – This ordinance shall be known as and may be cited as the “2010 Lexington-Fayette Urban County Government Occupational License Fee Amnesty Ordinance.”

Section 2 – The Division of Revenue shall develop and administer a one-time occupational license fee amnesty program as provided in the following sections with respect to the occupational license fee imposed by Code of Ordinance Sections 13-4 and 13-7 on net profits and payroll withholdings.

Section 3 – As used in this Ordinance, unless the context requires otherwise:

- (a) “Applicant” means any individual, business entity, trustee, guardian, executor, administrator or fiduciary, subject to the occupational license fee imposed by Ordinance Sections 13-4 and 13-7, who applies for the benefits of this Ordinance.
- (b) “Delinquent OLF” means any occupational license fee amount remaining unpaid after the original due date of the return, whether said return has been filed or not.
- (c) “Division” means the Division of Revenue of the Lexington-Fayette Urban County Government.
- (d) “OLF” means occupational license fees as imposed by Ordinance Sections 13-4 and 13-7 on net profits and payroll withholdings.
- (e) “Year” means the twelve-month accounting period used by the applicant for purposes of calculating the OLF due on annual returns.

Section 4 – Notwithstanding the provisions of any other law to the contrary, the OLF amnesty program shall be conducted by the Division for a

limited period beginning on the date of passage of this Ordinance and continuing through July 30, 2010. A complete application for amnesty under this program, including any required payment, must be postmarked or received in the office of the Division on or before July 30, 2010.

Section 5 – For any applicant who meets the requirements of this Ordinance:

- (a) For all OLF which are delinquent as of May 31, 2010, the Lexington-Fayette Urban County Government shall waive criminal prosecution and all civil penalties and interest which may be assessed under any section of the Code of Ordinances for the years for which OLF amnesty is requested as provided in Section 6.
- (b) With the exception of instances in which the applicant and Division enter into an installment payment agreement authorized under Section 8, the failure to pay all OLF as shown on the applicant's amnesty return shall invalidate any amnesty granted pursuant to this Ordinance.
- (c) This section shall not apply to any applicant who is subject to a criminal order of restitution.

Section 6 – The provisions of this Ordinance shall apply to any eligible applicant who files an application for amnesty within the time prescribed by this Ordinance and does the following:

- (a) Files completed returns for all years as stated on the application for which returns have not previously been filed except in cases in which the OLF liability has been established through audit; and
- (b) Either pays in full the OLF due for the years for which amnesty application is made at the time the application or amnesty returns are filed or pays the required twenty-five percent (25%) in accordance with Section 8 below; and
- (c) If, upon review of the application and forms the Division determines that additional OLF is due, pays the additional amount within thirty (30) days of notification by the Division.

Section 7 – Participation in the program shall be conditioned upon the applicant's agreement that the right to protest or initiate an administrative or judicial proceeding or to claim any refund of moneys paid under the program is barred with respect to the amounts paid with the application or amnesty returns.

Section 8 – The applicant may enter into an installment payment agreement in lieu of the complete payment required under Section 6. In such cases, twenty-five percent (25%) of the amount due shall be paid with the application or amnesty return with the balance to be paid in monthly installments not to exceed twelve (12) months. Failure of the applicant to make timely payments shall void the terms of the amnesty program. All such agreements shall include interest as provided under Section 13-12 to be calculated on any unpaid balance as of July 31, 2010.

Section 9 – If, following the termination of the OLF amnesty period, the Division issues a deficiency notice based upon information independent of that shown on a return filed pursuant to Section 6, the Division shall have the authority to impose penalties and interest and criminal and/or civil action may be brought where authorized by law only with respect to the difference between the amount shown on the amnesty return and the correct amount of OLF due.

Section 10 – The Division shall promulgate administrative regulations as necessary, issue forms and instructions, and take all actions necessary to implement the provisions of this Ordinance. The Division shall publicize the OLF amnesty program in order to maximize the public awareness of and participation in the program.

Section 11 – That this Ordinance shall become effective on the date of its passage.

PASSED URBAN COUNTY COUNCIL:

MAYOR

ATTEST:

CLERK OF URBAN COUNTY COUNCIL

PUBLISHED:

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